

Information or data that is electronically downloaded is not considered the transfer of tangible personal property in this State. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

June 19, 2007

Dear Xxxxx:

This letter is in response to your letter dated June 6, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to request a letter from you confirming that no sales tax is due on the sale of an electronically downloaded book, as provided in Title 86, Section 130.2105 of the Administrative Code.

I am seeking this written confirmation from you because my client received conflicting advice by telephone from IDOR representatives. One representative stated to my client's accountant that all sales of an electronically downloaded book are taxable, regardless of the state of residence of the purchaser, under Section 130.1935. Another representative confirmed in conversation with me that sales of an electronically downloaded book are not taxable in any state, including Illinois, as provided in Section 130.2105.

It seems obvious to me that Sec. 130.2105 conclusively exempts sales of an electronically downloaded book from sales tax regardless of the location of the purchaser. However, in view of the conflicting advice, we do not want to later be accused of having ignored the erroneous advice given to my client's accountant. I would therefore appreciate your letter confirmation that Section 130.2105 prevails.

My client's book has no characteristic in common with 'software' other than the fact that both can be electronically downloaded. The book is a paginated book, distributed in 'pdf'

format, and includes a front and back cover, table of contents, preface, foreword, ISBN number, copyright, chapters, index and afterword.

Please advise.

DEPARTMENT'S RESPONSE:

You are correct that information or data that is electronically downloaded is not considered the transfer of tangible personal property in this State. See 86 Ill. Adm. Code 130. 2105(a)(3). Please note that canned computer software is considered tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. See 86 Ill. Adm. Code 130. 1935.

It is our understanding that the electronic downloading of a book involves only the transfer of data or information and does not involve the electronic transfer of computer software. In such instances, the electronic download of a book is not subject to Retailers' Occupation Tax or Use Tax liability in this State.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes

TDC:msk